

Decision \_\_\_\_\_

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Integrate  
and Refine Procurement Policies and  
Consider Long-Term Procurement Plans.

Rulemaking 12-03-014  
(Filed March 22, 2012)

**DECISION GRANTING COMPENSATION TO THE VOTE SOLAR INITIATIVE  
FOR SUBSTANTIAL CONTRIBUTION TO DECISION 13-02-015**

<b>Claimant:</b> The Vote Solar Initiative (Vote Solar)		<b>For contribution to:</b> D.13-02-015	
<b>Claimed (\$):</b> 41,536.84		<b>Awarded (\$):</b> \$32,224.38 (~22.42% reduction)	
<b>Assigned Commissioner:</b> Michel Peter Florio		<b>Assigned ALJ:</b> David M. Gamson	
<b>A. Brief Description of Decision:</b>		D.13-02-015 authorizes long term procurement for resource needs in local capacity areas in Southern California. It authorizes Southern California Edison Company (SCE) to procure between 1400 and 1800 Megawatts (MW) of electrical capacity in the West Los Angeles sub-area of the Los Angeles (LA) basin local reliability area to meet long-term local capacity requirements (LCRs) by 2021. It also authorizes SCE to procure between 215 and 290 MW of the Moorpark subarea of the Big Creek/Ventura local reliability area.	

**B. Claimant must satisfy intervenor compensation requirements set forth in Public Utilities Code §§ 1801-1812:**

	<b>Claimant</b>	<b>CPUC Verified</b>
<b>Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):</b>		
1. Date of Prehearing Conference:	04/18/2012	Yes.
2. Other Specified Date for NOI:		
3. Date NOI Filed:	05/16/2012	Yes.
4. Was the NOI timely filed?		Yes, Vote Solar timely filed the notice of intent.
<b>Showing of customer or customer-related status (§ 1802(b)):</b>		
5. Based on ALJ ruling issued in proceeding number:	R.10-05-006	Yes.
6. Date of ALJ ruling:	March 3, 2011	Yes.
7. Based on another CPUC determination (specify):		
8. Has the Claimant demonstrated customer or customer-related status?		Yes, Vote Solar demonstrated the appropriate status as a customer.
<b>Showing of "significant financial hardship" (§ 1802(g)):</b>		
9. Based on ALJ ruling issued in proceeding number:	R.12-06-013	Yes.
10. Date of ALJ ruling:	02/25/2013	Yes.
11. Based on another CPUC determination (specify):		
12. Has the Claimant demonstrated significant financial hardship?		Yes, Vote Solar demonstrated significant financial hardship.
<b>Timely request for compensation (§ 1804(c)):</b>		
13. Identify Final Decision:	D.13-02-015	Yes.
14. Date of Issuance of Final Order or Decision:	02/13/2013	Yes.
15. File date of compensation request:	03/13/2013	Yes.
16. Was the request for compensation timely?		Yes, Vote Solar timely filed the request for compensation.

**PART II: SUBSTANTIAL CONTRIBUTION**

**A. In the fields below, describe in a concise manner Claimant’s contribution to the final decision (see § 1802(i), § 1803(a) & D.98-04-059).**

Intervenor’s Claimed Contribution(s)	Specific References to Intervenor’s Claimed Contribution(s)	CPUC Discussion
<p>Vote Solar submitted the following substantive documents:</p> <p>06/25/2012 Prepared Direct Testimony</p> <p>07/26/2012 Reply Testimony</p> <p>08/03/2012 Response to Motion</p> <p>09/07/2012 All Source RFO Proposal</p> <p>09/24/2012 Opening Brief</p> <p>10/9/2012 Comments on Workshop</p> <p>11/06/2012 Response to Motion</p> <p>01/14/2013 Opening Comments on PD</p> <p>01/21/2013 Reply Comments on PD</p>		<p>Verified, however the Commission notes that the Reply Comments on the Proposed Decision are not in the record of the proceeding.</p>
<p>1. EE, CHP and DG can be helpful in reducing overall net demand, but they are not likely as effective in reducing LCR needs as repowered gas-fired resources.</p> <p>2. CAISO’s Environmentally Constrained scenario sensitivity analysis demonstrates that uncommitted EE, CHP and DG significantly reduce LCR needs for the LA basin local reliability area compared to other CAISO scenarios.</p>	<p>Vote Solar emphasized the importance of addressing “operational differences between CT and DG performance” <i>Vote Solar’s All Source RFO Proposal</i>, p. 12.</p> <p><i>D.13-02-015</i>, Finding of Fact 13.</p> <p>Vote Solar argued that the CAISO’s Environmentally Constrained scenario is “a more reasonable and prudent high end LCR need boundary” than CAISO’s Trajectory scenario. <i>Vote Solar Opening Brief</i>, p. 4.</p> <p><i>D.13-02-015</i>, Finding of Fact 13.</p>	<p>Verified.</p>

<p>3. More uncommitted EE, CHP and DG will be available than forecasted in the CAISO's Trajectory scenarios.</p>	<p>Vote Solar testified that "CAISO's positions regarding 'uncommitted' resources" is contrary to the Preferred Loading Order. <i>Vote Solar's Prepared Direct Testimony</i>, p.3.</p> <p><i>D.13-02-015</i>, Finding of Fact16 and 21.</p>	<p>Verified.</p>
<p>4. Even if some uncommitted EE and CHP included in CAISO's Environmentally Constrained scenario sensitivity analysis do not ultimately materialize, there is a reasonable likelihood that demand response, energy storage and/or DG will be viable and able to meet or reduce LCR needs.</p>	<p>Vote Solar testified that "acceptance of the CAISO's positions regarding 'uncommitted' resources forgoes the potential 2021 benefits of energy efficiency, demand response, and distributed generation programs already in the pipeline as of 2012 (the so-called incremental amounts), as well as the potential 2021 benefits that might accrue from further efforts that the Commission might undertake in this direction." <i>Vote Solar's Prepared Direct Testimony</i>, p.3.</p> <p><i>D.13-02-015</i>, Finding of Fact 28.</p>	<p>Verified.</p>
<p>5. A sufficient amount of conventional gas-fired resources are needed to ensure LCR needs will be met.</p>	<p>Vote Solar supported a gas-fired resource need within a range of 800 and 1,700 MW. <i>Vote Solar Opening Brief</i>, p. 4.</p> <p><i>D.13-02-015</i>, Finding of Fact 30.</p>	<p>Verified; but we note Vote Solar put forth arguments that were duplicative of other parties on this issue. This demonstrates that these parties failed to adequately coordinate on this issue, resulting in</p>

		duplicitous efforts. <sup>1</sup> ,
6. The Commission has a broader mandate than the CAISO's reliability mandate. The Commission's broader mandate includes a commitment to a clean environment.	Vote Solar noted that "CAISO's incredulity regarding whether the incremental preferred resources embedded in the Sensitivity scenario will materialize causes CAISO to dismiss this very reasonable approach for reducing the Trajectory scenario based LCR need. Nevertheless, in light of the Commission's clear desire to adhere to the mandate of the preferred loading order, (footnote omitted) CAISO's arguments must be dismissed in their entirety." <i>Vote Solar Opening Brief</i> , p. 4. See also, <i>Vote Solar Comments on Workshop</i> , pp.7-8.  <i>D.13-02-015</i> , Conclusion of Law 1.	Verified.
7. Utility LCR procurement must take into account the availability of preferred resources before procuring non-preferred resources.	Vote Solar recommended that the "Commission should view the LCR process as an opportunity to manifest leadership in implementing the preferred loading order, which places [preferred resources] ahead of new fossil capacity in managing local requirements for the grid." <i>Vote Solar's Prepared Direct Testimony</i> , p.2.  <i>D.13-02-015</i> , Conclusion of Law 2.	Verified, although the Commission would have adopted this view without Vote Solar's participation.
8. SCE should be authorized to use either or both RFOs and cost of service	Vote Solar pointed out that "the hearing record includes	Verified.

<sup>1</sup> 2015 Cal. PUC LEXIS 264 (Cal. PUC 2015).

contracts in LCR procurement.	<p>numerous references to the possible need to enter bilateral negotiations with the existing OTC plants due their formidable market power.”</p> <p><i>Vote Solar Comments on Workshop</i>, pp.1-2.</p> <p><i>D.13-02-015</i>, Conclusion of Law 17.</p>	
9. Any extension to the OTC closure deadlines should be taken into account.	<p>Vote Solar testified regarding the need for the Commission to consider the possibility of OTC compliance extensions.</p> <p><i>Vote Solar’s Prepared Direct Testimony</i>, pp.5-6.</p> <p><i>D.13-02-015</i>, Conclusion of Law 20.</p>	Verified.
10. Some LCR procurement opportunities would be lost if there is delay in approving a procurement process.	<p>Vote Solar testified that “time is tight for building new capacity to address 2021 LCR needs, hence the urgency of coming to a Track 1 decision.” <i>Vote Solar’s Prepared Direct Testimony</i>, p.5.</p> <p><i>D.13-02-015</i>, Finding of Fact 25.</p>	Verified.

**B. Duplication of Effort (§§ 1801.3(f) & 1802.5):**

	<b>Claimant</b>	<b>CPUC Verified</b>
<b>a. Was the Office of Ratepayer Advocates (ORA) a party to the proceeding?<sup>2</sup></b>	Yes	<b>Verified.</b>
<b>b. Were there other parties to the proceeding with positions similar to yours?</b>	Yes	<b>Verified.</b>

<sup>2</sup> The Division of Ratepayer Advocates was renamed the Office of Ratepayer Advocates effective September 26, 2013, pursuant to Senate Bill No. 96 (Budget Act of 2013: public resources), which was approved by the Governor on September 26, 2013.

<p><b>c. If so, provide name of other parties:</b> To a large extent, California Cogeneration Council, TURN, CEERT. In some but not all areas, Sierra Club, CEJA, Clean Coalition, DRA, NRDC.</p>	<p><b>Verified.</b></p>
<p><b>Describe how you coordinated with ORA and other parties to avoid duplication or how your participation supplemented, complemented, or contributed to that of another party:</b> Vote Solar consulted with all of the above named parties and DRA regarding litigation strategies. Ultimately, in spite of having many similar positions, due to key differences regarding gas fired procurement needs, Vote Solar was unable to conduct joint advocacy with the majority of the other environmental groups. Vote Solar did, however, submit two sets of joint pleadings with the California Cogeneration Council.</p>	<p><b>Verified.</b></p>

### PART III: REASONABLENESS OF REQUESTED COMPENSATION

#### A. General Claim of Reasonableness (§§ 1801 & 1806):

a. Intervenor's claim of cost reasonableness:	CPUC Verified
<p>Vote Solar's participation in this proceeding was directed at policy and environmental matters, and therefore ascertaining direct benefits, in terms of actual dollars, to ratepayers is essentially impossible.</p> <p>Nevertheless, Vote Solar's actions as an individual party resulted in direct and specific impacts to the manner in which SCE will conduct LCR procurement. These outcomes encourage greater penetration of preferred resources in California while maintaining a safe and reliable supply of gas generation, and thus are entirely consistent with D.88-04-066, which states:</p> <p><i>With respect to environmental groups, [the Commission has] concluded they were eligible in the past with the understanding that they represent customers whose environmental interests include the concern that, e.g., regulatory policies encourage the adoption of all cost-effective conservation measures and discourage unnecessary new generating resources that are expensive and environmentally damaging. They represent customers who have a concern for the environment which distinguishes their interests from the interests represented by Commission staff, for example. (mimeo. at p.3.)</i></p> <p>Ultimately, Vote Solar's membership, which now includes over 10,000 Californians, are directly benefitted by the above described advocacy in that it directly addresses their environmental concerns and desire to see the full potential of solar and other preferred resources. All Californians,</p>	<p><b>Verified.</b></p>

<p>including Californian investor owned utility customers, also benefit, albeit more generally and indirectly, from Vote Solar's mission to fight global warming, increase energy independence, decrease fossil fuel dependence, and foster economic development by bringing solar energy into the mainstream.</p>	
<p><b>b. Reasonableness of Hours Claimed.</b> Vote Solar is a small, tightly staffed and budgeted organization with a very "flat" management structure. Accordingly (and unfortunately) Vote Solar does not have the resources to "delegate" work from senior to more junior staff. The "lead" attorney, Kelly Foley, is the only in house attorney at Vote Solar and the only employee, attorney or otherwise, dedicated full time to California issues.</p> <p>In recognizing that Ms. Foley is a senior attorney theoretically eligible to bill at a fairly high rate, she compensated for her inability to delegate work by applying up front reduction of her work hours as appropriate, or with respect to preparing intervenor compensation related filings, reducing her rate by more than required by the Commission. Furthermore, Vote Solar continuously strives, whenever practical or possible, to narrow participation to areas where Vote Solar is more likely to bring a unique voice, perspective or contribution.</p> <p>Vote Solar also incorporates pro-rate adjustments to time spent by multiple Vote Solar representatives. As indicated on the time sheets, if, by example, two Vote Solar representatives spend 1 hour on a phone call, the 1 hour is split between the two representatives, with a half hour being claimed by each, rather than the full hour.</p>	<p>Verified, <i>but see</i> CPUC Disallowances &amp; Adjustments, below.</p>
<p><b>c. Allocation of Hours by Issue</b></p> <p>Issues Areas (with letter code)</p>	<p>Verified.</p>
<p>A. Whether additional capacity is required to meet local reliability needs in the Los Angeles Basin and Big Creek/Ventura area between 2014 and 2021, and, if so, how.</p>	<p>15.06%</p>
<p>B. Whether flexible capacity attributes should be incorporated into a decision regarding additional capacity required to meet local reliability needs between 2014 and 2021 and, if so, how.</p>	<p>13.76%</p>
<p>C. What assumptions concerning retirements of OTC plants should be made for the purpose of determining future local reliability needs.</p>	<p>13.83%</p>
<p>D. Whether the ISO's local capacity requirements and OTC studies should be adopted by the Commission as the basis for procurement</p>	<p>15.93%</p>



of additional capacity, and, if not, what should form the basis of a Commission decision.	
E. How resources aside from conventional generation, such as uncommitted energy efficiency, demand response, energy storage and distributed generation resources should be considered in determining future local reliability needs.	37.95%
F. General and procedural.	3.47%

**B. Specific Claim:\***

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours[A]	Rate	Total \$
Kelly Foley	2012	83.05	\$350	New Rate Request, <i>see</i> Attachment D	\$29,067.50	64.9	\$330.00 <i>See</i> D.13-10-034.	\$21,417.00
Kelly Foley	2013	5.5	\$350	New Rate Request, <i>see</i> Attachment D	\$1,925.00	3.725[1]	\$335.00[2]	\$1,247.88
Eric Gimon	2012	53.2	\$180	New Rate Request, <i>see</i> Attachment D	\$9,576.00	45.4	\$180.00[3]	\$8,172.00
	Subtotal:				\$40,568.50	Subtotal:		\$30,836.88
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
Kelly Foley	2012	1	1/3 of \$350	New Rate Request, <i>see</i> Attachment D	\$116.67	1	\$165.00	\$165.00
Kelly Foley	2013	7.3	1/3 of \$350	New Rate Request, <i>see</i> Attachment D	\$851.67	7.3	\$167.50	\$1222.75
	Subtotal:				\$968.34	Subtotal:		\$1387.50
TOTAL REQUEST \$:					\$41,536.84	TOTAL AWARD \$:		\$32,224.38
**We remind all intervenors that Commission staff may audit their records related to the award and that intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Intervenor's records should identify specific issues for which it seeks compensation, the actual time spent by each employee or consultant, the applicable hourly rates, fees paid to consultants and any other costs for which compensation was claimed. The records pertaining to								

an award of compensation shall be retained for at least three years from the date of the final decision making the award.

\*\*Travel and Reasonable Claim preparation time typically compensated at ½ of preparer's normal hourly rate.

### C. CPUC Disallowances and Adjustments:

#	Reason
[A]	Duplication and lack of substantial contribution occurred when preparing work on Issue Area (E). As such, the Commission disallows 50% of the claimed hours associated with this issue. As a result, the following hours were removed: 18.15 hours from Foley's 2012 claim; 1.275 hours from Foley's 2013 claim; and 7.8 hours from Gimon's 2012 claim.
[1]	0.5 hours are disallowed for work on Vote Solar's reply comments, as these comments are not in the record and did not contribute to the Commission's decision.
[2]	In Resolution ALJ-287, the Commission adopted a 2% cost-of-living adjustment for work performed in 2013. When applied to Foley's 2012 rate, and rounded to nearest five-dollar increment, a rate of \$335 is produced. Foley's 2013 rate is set at \$335.
[3]	Based on the resume submitted, Gimon's 2012 rate is approved at \$180.

## PART IV: OPPOSITIONS AND COMMENTS

<b>A. Opposition: Did any party oppose the Claim?</b>	No.
<b>B. Comment Period: Was the 30-day comment period waived (see Rule 14.6(2)(6))?</b>	Yes.

### FINDINGS OF FACT

1. The Vote Solar Initiative has made a substantial contribution to Decision (D.) 13-02-015.
2. The requested hourly rates for The Vote Solar Initiative's representatives, as adjusted herein, are comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services.
3. The claimed costs and expenses, as adjusted herein, are reasonable and commensurate with the work performed.
4. The total of reasonable compensation is \$32,224.38.

**CONCLUSION OF LAW**

1. The Claim, with any adjustment set forth above, satisfies all requirements of Public Utilities Code Sections 1801-1812.

**ORDER**

1. The Vote Solar Initiative shall be awarded \$32,224.38.
2. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company, San Diego Gas & Electric, and Southern California Edison Company shall pay The Vote Solar Initiative their respective shares of the award, based on their California-jurisdictional electric revenues for the 2012 calendar year, to reflect the year in which the phases of the proceeding relevant to the Claim were primarily litigated. Payment of the award shall include compound interest at the rate earned on prime, three-month, non-financial commercial paper as reported in Federal Reserve Statistical Release H.15, beginning May 27, 2013, the 75th day after the filing of The Vote Solar Initiative's request, and continuing until full payment is made.
3. The comment period for today's decision is waived.

This decision is effective today.

Dated \_\_\_\_\_, at San Francisco, California.

**APPENDIX**  
**Compensation Decision Summary Information**

<b>Compensation Decision:</b>		<b>Modifies Decision?</b>	No
<b>Contribution Decision(s):</b>	D1302015		
<b>Proceeding(s):</b>	R1203014		
<b>Author:</b>	ALJ Gamson		
<b>Payer(s):</b>	Pacific Gas and Electric Company, San Diego Gas & Electric, and Southern California Edison Company		

**Intervenor Information**

<b>Intervenor</b>	<b>Claim Date</b>	<b>Amount Requested</b>	<b>Amount Awarded</b>	<b>Multiplier?</b>	<b>Reason Change/Disallowance</b>
The Vote Solar Initiative	3/13/2013	\$41,536.84	\$32,224.38	N/A	<i>See Disallowances &amp; Adjustments, above.</i>

**Advocate Information**

<b>First Name</b>	<b>Last Name</b>	<b>Type</b>	<b>Intervenor</b>	<b>Hourly Fee Requested</b>	<b>Year Hourly Fee Requested</b>	<b>Hourly Fee Adopted</b>
Kelly	Foley	Attorney	The Vote Solar Initiative	\$350	2012	\$330.00
Kelly	Foley	Attorney	The Vote Solar Initiative	\$350	2013	\$335.00
Eric	Gimon	Expert	The Vote Solar Initiative	\$180	2012	\$180.00

**(END OF APPENDIX)**